

PREDICAMENT OF ADVERTISEMENTS: TOWARDS AN ETHICAL DIVERGENCE PARADIGM

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ABSTRACT

Advertisement is the process of communicating the most persuasive selling message possible, to the right potential consumer of products or services at the right time and place, at least possible cost. Advertisement acts as a communicating bridge between producer and consumer. With industrialization and expansion of market access, importance of advertising is steadily on the increase in modern society. Advertising, using media as its vehicle, is a pervasive, powerful force shaping attitudes and behavior in today's world. At times it goes beyond the traditional role of 'fair and truthful' information and portrays obscene, undesirable and unethical scenes giving a detrimental result especially on the young population of the society. In our day to day lives, we always face situations where we have to take decisions, and decide what is right and wrong. We are always faced with the debate of what is moral or immoral, ethical or unethical and according to the perception of each individual, the right decision from their point of view is made. Over the years advertising and marketing communication messages have created a lot of debatable ethical issues, due to the public belief, that advertisements nowadays deeply affect the way people perceive themselves and the world surrounding them, including crucial actions and behaviors.

The article will provide a theoretical framework investigating about various contemporary types of unethical advertisements like advertisements with obscenity and sexual overtone, endorsed by children, surrogate advertising, subliminal advertisements, false and misleading advertisements etc. The ethical aspect of Indian advertisement is extremely important for restoration of our Indian culture, norms, ethics and heritage. This article also talks about statutory prohibition and regulations of such unethical advertisements and establishment of self regulatory body like ASCI to tackle the problem. But the most important problem lies in improper implementation of the laws.

KEYWORDS: Advertisement, Ethics in Advertising, Advertising Regulations, ASCI, Regulations

INTRODUCTION

The proper definition of "Morals"; are the beliefs that people hold against what is considered right or wrong. Morals direct people as they make decisions in their personal and professional lives. Another term that always accompanies Morals is Ethics; these are the principles that serve as guidelines for both individuals and organizations, they help create boundaries regarding what is acceptable and what is not, since these behaviors are related to moral feelings about right and wrong. (Clow & Baack, 2007). Moral issues in marketing are important, given the fact that marketing is expected to identify, predict and satisfy customer requirements profitably (Carrigan et al, 2005). Due to the difficult equation between both ends of the marketer's responsibility, some actions (like certain Ads), have led to the creation of new laws and regulations regarding the world of advertising. (Clow & Baack, 2007).

In order to have a better understanding of the situation, we need to further explore the world of advertisements, the appeals used, the targeted decision making components and the effects of Ads on the targeted consumer as a whole. There are two main components advertisers aim to effect; the affective component, where affective message strategies are applied by invoking feelings and trying to match them with the product or service offered in an effort to increase the likeability of the product, and also the cognitive components, where the Ad focuses on the attributes and benefits of the product, encouraging the consumer to buy it (Clow & Baack, 2007). Such components are affected by the leverage points in an Ad; these are the features in the Ad that helps the consumer transfer the advertised message into personal value (Clow & Baack, 2007).

LITERATURE REVIEW

Petroshius (1986) found that female students had a more favorable attitude towards the institution of advertising while male students had a more favorable attitude toward the ethics of advertising. Larkin (1977) administered 26 Likert-type statements to 80 college students to measure their attitude toward advertising along four different dimensions: economic effects of advertising, social effects of advertising, ethics of advertising and regulation of advertising. Nageshwara Rao.S.B. (1987) in his study on “The code of ethics in advertising”, suggested that the advertising should make the life of the consumer easier, more comfortable and pleasant. Thus, he emphasizes on ethics and honesty in advertising. Samudhra Raja Kumar. C. *et al* (2000) has conducted a study on “consumers” attitude towards advertisements” and concluded that the advertisers must concentrate more on the information and social aspects in any advertising and must avoid advertising for harmful products and exploitation of women. The government should also play a key role in framing regulations regarding advertisements relating to exploitation of women. Advertisers should fulfill their obligations towards the society. To further validate his findings Subhash Chanter and Rishi Raj (2003) found that unethical advertisements irrespective of the positive perceptions, unethical advertisements create a negative impact on the society. Also, majority of the people perceive the phenomena of unethical advertising as negative for the advertised product. Thus, the review on these past studies has revealed the importance of ethical codes of conduct in advertising which dictates the success of any advertisement. Hence, the present study focuses on the level of ethics followed and presents an extensive comparison of print and electronic media.

In past research, ethical concerns have been also been raised on the use of sexual appeals in advertising. In a study conducted by Pollay in 1986, it was found that the effects of excessive use of sexual appeals in ads, manifested themselves in the form of sexual preoccupation and rise in crime against women, both of which were damaging to morality and society. Likewise, in a study conducted by Henthrone and LaTour in 1994, it was pointed out that undesirable consequences and reactions may result from the use of strong overt sexual appeals in advertising. It was suggested that advertisers needed to recognize the moral/ethical complexity involved in the use of sexual appeals and incorporate that understanding within their strategic thought. Stereotypes in advertising is yet another reason for which ads have been heavily criticized. In a study conducted in 2000 by Coltrane and Messineo, stereotypes of race and gender in advertising were studied. It was found that characters in television commercials (hence forth TVCs) enjoyed more prominence if they were white or men. Five years later, Chatterji (2005) pointed out that extreme stereotypes of gender were presented in ads, which perpetuated a lifestyle oppressive to women. A study with a similar conclusion was conducted by Schaffter (2006), which revealed that representation of women in ads was not just stereotypical, but unethical and offensive too, worked to the deterrent of women and perpetuated gender hierarchy. Building on the same, past research has also been concerned

with the cognitive, behavioral and attitudinal consequences of gender stereotypical advertising. Richins (1991) pointed out that comparison with the idealized images in advertising raised comparison standards for attractiveness in case of young women and lowered their satisfaction with their own attractiveness. In a similar study conducted by Fay and Price (1994), it was found that it was normal for adolescent girls and young women to compare their bodies with media images and to a greater extent than non-sufferers, anorexics were influenced and their self image diminished by advertising images. Lavine et al. (1999) showed by way of a study that TV ads that portray women as sex objects led to increased body dissatisfaction in women. For many women, such ads were found to lead to a loss of confidence/self-respect (Pollay, 1986).

In a recent study conducted by Drum Wright and Murphy (2009), the current state of advertising ethics was studied and it was found that deceptive advertising was openly allowed. Evidence is also available on the strong reluctance on the part of the ad agencies to institute policies that proscribe unethical conduct (Pratt and James, 1994). It is thus time for the advertising industry to embrace its responsibilities and develop ethical campaigns to prevent the waning of community values and check the other harmful effects of advertising.

ROLE OF SEX APPEAL

As mentioned earlier sex appeal is one of the seven different appeals used in advertising. Sex appeal can be defined as messages, which are integrated with sexual information, in particular, this appeal can be defined as the degree of nudity or sexual explicitness in an Ad, It can be found in the visual, audio, and verbal elements of advertisements.(Liu&Li&Cheng2006) Sex appeal in advertising is generally viewed as an effective strategy to attract attention to your brand. The pervasiveness of this approach is evidence of the fact that companies believe it works well. In some instances, sex appeal alone is the attention-getter in an ad, while other times the product presents a natural opening for sexual ad messages. For some companies and products, sexuality is the allure used in advertising to draw attention to an otherwise tame product.

ROLE OF EMOTIONAL APPEAL

An emotional appeal is a method of persuasion that's designed to create an emotional response. Emotion (also known as 'pathos,' or 'suffering' in Greek) is one of the three modes of persuasion identified by Aristotle. The other two are 'logos' (logic) and 'ethos' (authority). Emotional appeals are considered fallacies, because they manipulate emotions in an audience. Emotional appeals are especially prevalent in advertising. When fashion magazines play on our insecurities about body image, they're using emotional appeals. When political ads play on our fears, telling us that voting for someone will lead to financial ruin and wars, they're using emotional appeals. Students frequently use emotional appeals on their professors, hoping for pity as they ask for more time to finish a paper. Emotional appeals are used in court rooms during trials and in persuasive essays to increase the effectiveness of arguments.

There are many different executional frameworks where emotional appeal can be featured in the Ad, examples for that is using a slice of life commercial, in these Ads the aim is to provide solutions to day to day problems, trying to relate the target audiences to the models or actors in the commercial, forming some kind of emotional attachment, other similar approaches are dramatization and testimonials, it present problems and its solutions but with a higher level of excitement to the story.(Clow&Baack,2007) As mentioned earlier emotional appeal can be used for a variety of products/ services..Etc. the other advantage of this appeal, is the fact that it can be integrated with other appeals such as music, humor and even fear. Providing the target audience with a more vivid life like visual presentation. Many examples are available for a better

understating of this appeal, western union for instance used this technique to convey the concepts of trust and reliability. MasterCard used this approach for one of its most successful Ads with the slogan “there are some things money can’t buy, for everything else there is MasterCard’. As mentioned earlier, emotional advertisements are very popular and can be used creatively for almost anything. For that reason there is a great ethical debate about this appeal, since it can sometime exploit the audiences emotions, leading to the purchase of the product that they might have not needed or a product that would eventually harm them. (Clow&Baack, 2007).

ETHICAL CONSIDERATIONS IN ADVERTISING

One of the major problems in advertising and promotion is the lack of a clear and acceptable code of conduct. Advertising codes vary from country to country. Since the primary objectives of any advertiser are profit oriented, social concerns HAVE SIGNIFICANT IMPACT on the long- term economic environment of the advertiser. Advertising is primarily meant to influence the independent thinking of the consumer and change his behavior. In a way, advertising can be considered as a brain- washing catalyst, which is intended to manipulate the consumer into thinking that the advertised product is the best for him, and it does not matter much whether the consumer really needs the product or not. In that respect advertising can be considered manipulative with its accompanying social significance. On the other hand advertising is a major force in society, providing valuable service to its members as well, so that, it „tends to help us understand the products, services and institutions that we encounter in our culture and provides us with some understanding of our relation to theme”. However, it is the manipulative aspect of advertising that is considered the socially detrimental aspect. This manipulative aspect is responsible for leading consumers to purchase things they do not need or should not need. This, the critics contend, is the misallocation of economic resources.

In this regard advertising has a social responsibility to inform the people of various choices available and educate them about the superiority of a given product by putting forth hard facts about the characteristics of the product. Thus the consumers can freely decide for themselves as to which products to buy and which products to avoid. There are some areas of concern, where advertisers need to be more responsive to community needs. These areas are: Advertising is considered to be an environmental pollutant. Most advertising is resented by people because it is simply too much to absorb. There are too many messages on the Radio and TV, too many billboards and many print Adverts, hence we have advertising clutters. It is too pervasive and too interfering in people, personal lives. In that respect it is considered to pollute the mental environment. This is especially true about TV, Radio and Billboard Advertising. However, because of advertising’s acknowledged economic and competitive role in a free enterprise economy, it is almost impossible to limit its role in the total marketing mix.

ADVERTISING REGULATIONS-GLOBAL PERSPECTIVE

Advertising regulation refers to the laws and rules defining the ways in which products can be advertised in a particular region. Rules can define a wide number of different aspects, such as placement, timing, and content. In the United States, false advertising and health-related ads are regulated the most. Many communities have their own rules, particularly for outdoor advertising. Sweden and Norway prohibit domestic advertising that targets children. Some European countries don’t allow sponsorship of children’s programs, no advertisement can be aimed at children under the age of twelve, and there can be no advertisements five minutes before or after a children’s program is aired.

In the United Kingdom advertising of tobacco on television, billboards or at sporting events is banned. Similarly alcohol advertisers in the United Kingdom are not allowed to discuss in a campaign the relative benefits of drinking, in most instances therefore choosing to focus around the brand image and associative benefits instead of those aligned with consumption. There are many regulations throughout the rest of Europe as well. In many non-Western countries, a wide-variety of linguistic and non-linguistic strategies are used to mock and undermine regulations.

It is a fact that advertising agencies tend to go overboard, when it comes to selling a product. Double meaning words, sexuality, violence, misleading, false and offensive advertising videos are now a part of our life.

ADVERTISING REGULATIONS-INDIAN PERSPECTIVE

Absence of a single comprehensive legislation had created a lot of confusion in the advertising industry. In 1985, a self regulatory mechanism of ensuring ethical advertising practices was established in the form of the Advertising Standards Council of India (ASCI), a non statutory tribunal. It is an independent body under the aegis of Advertising Agencies Association of India (AAAI) ASCI entertained and disposed off complaints based on its Code of Advertising Practice (ASCI Code). Gradually, the ASCI Code received huge recognition from the advertising industry. In August 2006, the ASCI Code was made compulsory for TV advertisements by amending the Cable Television Networks (Amendment) Rules, 2006: "No advertisement which violates the Code for Self-Regulation in Advertising, as adopted by the ASCI, Mumbai for public exhibition in India, from time to time, shall be carried in the cable service." This move has provided a binding effect on the ASCI Code. Rule 7 postulates that any advertisement which derides any race, caste and tends to incite people to crime, cause disorder or are indecent or vulgar. Further, section 6 of the Cable Television Networks (Regulation) Act, 1955 prohibits the transmission or retransmission of any advertisement through a cable service unless they are in conformity with the ASCI Code.

ASCI GUIDELINES (ADVERTISING STANDARDS COUNCIL OF INDIA)

- To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertising.
- To ensure that advertisements are not offensive to generally accepted standards of public decency.
- To safeguard against indiscriminate use of advertising for promotion of products which are regarded as hazardous to society or to individuals to a degree or of a type which is unacceptable to society in large.
- To ensure that advertisements observe fairness in competition so that consumers need to be informed on choices in the market place and the canons of generally accepted competitive behavior in business are both served.

Under the ASCI Code, complaints against the advertisements can be made by any person who considers them to be false, misleading, offensive, or unfair. The complaints are evaluated by an independent Consumer Complaints Council (CCC). CCC decides on complaints from the general public including government officials, consumer groups, etc., complaints from one advertiser against another and even suo moto complaints from the member of the ASCI Board, CCC, or the Secretariat. The CCC usually decides upon the complaints within a period of 4 to 6 weeks once the party concerned is afforded an opportunity of presenting its case.

LEGAL PROVISIONS CONCERNING ADVERTISING

- Section 292 and 293 of the Indian Penal Code, 1860 prohibit the dissemination of any obscene matter. *The Indian Post Office Act*, 1898, imposes a similar prohibition on the transmission of obscene matter through post. The Customs Act, 1962 allows the detention and seizure of any obscene matter sought to be imported into the country.
- *The Young Persons (Harmful Publications) Act*, 1956, prohibits the dissemination of publications deemed to be harmful to persons under the age of twenty years.
- *The Indecent Representation of Women (Prohibition) Act*, 1986 forbids the depiction of women in an indecent or derogatory manner in the mass media.
- *The Children Act*, 1960 prohibits the disclosure of the name and address and other particulars of any child involved in certain proceedings
- *The Emblems and Names (prevention of Improper Use) Act*, 1950, forbids the use by any private party of certain names, emblems etc.
- *The Prevention of Insults to the National Honour Act*, 1971, forbids the bringing into contempt of the National Flag or the Constitution of India in any manner.
- *The Indian Penal Code*, 1860, prohibits the publication of matters connected with unauthorized lotteries, while the Indian Post Office Act, 1898 imposes a similar prohibition on the transmission by the post of such matter. *The Indian Penal Code*, 1860, also prohibits the publication of appeals using National symbols for furthering the prospects of any candidate at an election.
- *The Drugs and Magic Remedies (objectionable Advertisement) Act*, 1954, prohibits advertisements for products and services claiming to cure certain medical conditions.
- *The Prize Competitions Act*, 1955, prohibits the publication of matter with unauthorized price competitions, while the *Prize Chits and Money Circulation Schemes (Banning) Act*, 1978, and imposes a similar prohibition in respect of chits and money circulation schemes.

The provisions of the law imposing limitations on message/content in the print media play a crucial role towards advertising. In fact, most of the provisions governing the print media are applicable to advertising as well, with such modifications as the context may require. The advertising industry has also evolved a Code of Ethics to govern the profession, keeping in view the culture and ethos of Indian Society.

MINUTIAE OF LEGAL ACTIONS TOWARDS UNETHICAL ADVERTISEMENT PRACTICES

- Ridicule caste, race, nationality, colour and creed.
- Goes against any provision of the Indian Constitution.
- Incite people towards criminal activity, provocative, cause disorder and/or violence in the country.
- Breach laws and/or glorify obscenity or violence in any form.
- Glorify terrorism, communal massacres, and criminality and so on.

- Ridicule the father of the nation, the national emblem, part of Constitution or the image of a national leader or a state dignitary.
- Depict women in a deprecating manner. Females should not be portrayed in a manner that is obscene, exploitative or vulgar.

CONCLUSIONS

The ethical aspect of Indian advertisement is enormously important for refurbishment of our Indian culture and tradition. Indian culture is getting diluted by the western culture which influences our country to a great extent. As Zinkhan, Bisesi and Saxton (1989) have pointed out, the influence and impact of “moral idealism” change overtime. It is therefore prudent to continually re-evaluate the assumptions on which strategic decisions are based. Advertisers considering the use of sexual appeals need to examine all potential social issues at stake. Advertising executives should consider not only the unintended consequences of using such appeals, but also the perceived morality of doing so (Gould 1994).

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